

FILED
07 MAR 29 AM 9:41
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MS
JS

WILLIAM R. TAMAYO, SBN 084965 (CA)
JONATHAN T. PECK, SBN 12303 (VA)
MARCIA L. MITCHELL, SBN 18122 (WA)
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
San Francisco District Office
350 The Embarcadero, Suite 500
San Francisco, CA 94105
Telephone No. (415) 625-5651
Fax No. (415) 625-5657
Marcia.Mitchell@eeoc.gov
Attorneys for Applicant

E-Filing

UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

vs.

HAPPY DOG ENTERPRISES, LLC dba
HAPPY DOG PIZZA COMPANY,

Defendant.

Case No.:

07 1778

COMPLAINT

CIVIL RIGHTS - EMPLOYMENT PVT
DISCRIMINATION

JURY TRIAL DEMANDED

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex, female, and to provide appropriate relief to Lalani Ponce who was adversely affected by such practices. As alleged below, Defendant, Happy Dog Enterprises, LLC dba Happy Dog Pizza Company subjected Lalani Ponce to sex discrimination by withdrawing a job offer for a management position and discharging her within a week after learning that she was pregnant.

JURISDICTION AND VENUE

1
2 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343, and
3 1345. This action is authorized and instituted pursuant to sections 706(f)(1) of Title VII of the
4 Civil Rights Act of 1964, as amended (Title VII), 42 U.S.C. §§2000e-5(f)(1), and Section 102 of
5 the Civil Rights Act of 1991, 42 U.S.C. §1981a.

6
7 2. The employment practices alleged to be unlawful were and are now being committed
8 within the County of Santa Clara in the State of California which is within the jurisdiction of the
9 United States District Court for the Northern District of California, San Jose Division.

10 PARTIES

11
12 3. Plaintiff, the Equal Employment Opportunity Commission ("EEOC"), is the agency of
13 the United States of America charged with the administration, interpretation, and enforcement of
14 Title VII and is expressly authorized to bring this action by sections 706(f)(1) and (3) of Title
15 VII, 42 U.S.C. §§2000e-5(f)(1) and (3).

16
17 4. At all relevant times, Defendant, Happy Dog Pizza Company, has continuously been
18 doing business in the State of California and the City of Gilroy and has continuously had at least
19 fifteen employees.

20
21 5. At all relevant times, Defendant Happy Dog Pizza Company has continuously been an
22 employer engaged in an industry affecting commerce within the meaning of section 701(b), (g),
23 and (h) of Title VII, 42 U.S.C. §2000e-(b), (g), and (h).

24 STATEMENT OF CLAIMS

25
26 6. More than thirty days prior to the institution of this lawsuit, Lalani Ponce filed a charge
27 of discrimination with the EEOC alleging violations of Title VII by Happy Dog Pizza Company.
28 All conditions precedent to the institution of this lawsuit have been fulfilled.

1 7. Since at least February 18, 2004, Defendant Happy Dog Pizza Company has engaged in
2 unlawful practices at its Gilroy, California restaurant in violation of section 703(a)(1) of Title
3 VII, 42 U.S.C. §§2000e-2(a). These practices include denying Lalani Ponce a position as Floor
4 Manager and terminating her employment on the basis of her gender, female.

5 8. The effect of the practices complained of in paragraph 7 above has been to deprive Ms.
6 Ponce of equal employment opportunities and otherwise to adversely affect his status as an
7 employee because of his gender, female.

9 9. The unlawful employment practices complained of in paragraphs 7-8 above were and are
10 intentional.

11 10. The unlawful employment practices complained of in paragraphs 7-8 above were and are
12 done with malice and/or reckless disregard for the federally protected rights of Ms. Ponce.
13

14 PRAYER FOR RELIEF

15 WHEREFORE, the Commission respectfully requests that this Court:

16 A. Grant a permanent injunction enjoining Defendant Employer, its officers,
17 successors, assigns, and all persons in active concert or participation with it, from engaging in
18 any employment practice which discriminates on the basis of gender.

19 B. Order Defendant Employer to institute and carry out policies, practices, and
20 programs which provide equal employment opportunities for its female employees and which
21 eradicate the effects of its past and present unlawful employment practices.

22 C. Order Defendant Employer to make whole Ms. Ponce by providing compensation
23 for past and future pecuniary losses resulting from the unlawful employment practices described
24 above, including medical expenses, with interest, in amounts to be determined at trial.

25 D. Order Defendant Employer to make whole Ms. Ponce by providing compensation
26 for past and future non-pecuniary losses caused by the above unlawful conduct, including pain
27 and suffering, emotional distress, indignity, loss of enjoyment of life, loss of self-esteem, and
28 humiliation, in amounts to be determined at trial.

1 E. Order Defendant Employer to pay Ms. Ponce punitive damages for its malicious
2 and reckless conduct described above, in amounts to be determined at trial.

3 F. Grant such further relief as the Court deems proper.

4 G. Award the Commission its costs in this action.

5 JURY TRIAL DEMAND

6 The Commission requests a jury trial on all questions of fact raised by its complaint.

7 RONALD COOPER
8 GENERAL COUNSEL

9 JAMES L. LEE
10 DEPUTY GENERAL COUNSEL

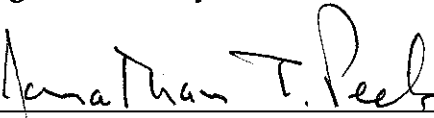
11 GWENDOLYN YOUNG REAMS
12 ASSOCIATE GENERAL COUNSEL

13 EQUAL EMPLOYMENT OPPORTUNITY
14 COMMISSION
15 1801 L Street, N.W.
16 Washington, DC 20507


16 Dated: 3/29/07


17 WILLIAM R. TAMAYO
18 Regional Attorney

19 Dated: 3/29/07


20 JONATHAN T. PECK
21 Supervisory Trial Attorney

22 Dated: 3/29/07


23 MARCIA L. MITCHELL
24 Senior Trial Attorney

25 EQUAL EMPLOYMENT
26 OPPORTUNITY COMMISSION
27 San Francisco District Office
28